

Application No.: 09/740,559

Docket No. D02311

**REMARKS**

**A. Status of the Application**

Claims 9-13 were under consideration in the instant application.

With this response the Applicant has requested that claims 9, 10, 11 and 12 be amended, new claims 27-29 be entered, and claim 13 be canceled.

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**B. Rejections of the Claims under 35 U.S.C. § 112**

The Examiner rejected claims 9-13 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The Examiner cited the use of the phrase based, at least in part upon" as the root of the indefinite nature of Claim 9 (from which the rejected claims depend).

The basis for the Examiner's rejection is fully appreciated by the Applicants, and Claim 9 has been amended accordingly. As shown below, the offending phrase has been replaced by a direct and definite recitation requiring the blocking of the receipt of a message to be a function of a determination that a receiver is authorized (see bold/italicized highlighting).

9. A method for accessing ~~distributing~~ a message in a conditional access system, the method comprising:

receiving authorization information with a first conditional access receiver;

generating a first authorization for use of a separately received content object ~~the video stream~~ by a plurality of set top receivers;

~~receiving first authorization with the first conditional access receiver;~~

performing a first determination to test if a ~~the~~ first set top conditional access receiver is authorized to access ~~receive~~ the separately received content object message;

receiving authorization information with a second conditional access receiver;

performing a second determination to test if a ~~the~~ second set top conditional access receiver is authorized to access ~~receive~~ the separately received content object message;

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blocking access to the separately received content object by the receipt of the message with the first set top conditional access receiver as a function of based, at least in part, upon the determining if the first set top conditional access receiver is authorized; and

blocking access to the separately received content object by the receipt of the message with the second set top conditional access receiver as a function of based, at least in part, upon the determining if the second set top conditional access receiver is authorized.

It is believed that this amendment cures Claim 9 of its indefinite wording problem, and the Examiner is respectfully requested to reconsider this rejection with respect to the amended claim, and claims 10-12 which depend thereon.

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**C. Rejections of the Claims under 35 U.S.C. § 102**

The Examiner rejected claims 9-13 as being anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,420,866 ("Wasilewski").

With respect to Claim 9 (the only pending independent claim), the Examiner reiterated the previously rendered rejection, citing the manner in which Wasilewski could be seen as disclosing all of the aspects of Claim 9. While Applicants do not believe that the instant invention is disclosed by Wasilewski, they do believe they understand the basis for the Examiner's rejection of that claim, and that the issue is the improper wording of Claim 9 by the Applicants, rather than the anticipation of the disclosed invention by Wasilewski.

In particular, the Applicants suggest to the Examiner that the disclosed invention should rightfully be claimed as a method directed to the conditional access of a separately received message within a conditional access system, and Claim 9 has been amended accordingly. Contrastingly, Wasilewski discloses a system for the provision of encrypted information to a set of decoders in a conditional access system, wherein the encryption information is specific to the particular "stream" of information in which it is inserted (col. 5, lines 31 – col. 6, line 17).

All presently requested amendments to Claim 9 are fully supported by the Applicants' originally submitted application. The Examiner is respectfully requested to reconsider the rejection of this claim in light of these amendments.

Applicants have also requested that Claim 10-12 be amended so that they are brought into conformance with presently amended Claim 9. Herewith, Applicants also submit new Claims 27-29 (again, all fully supported by the original specification). All of these dependent claims are believed by Applicants to be readily distinguishable from Wasilewski.

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**D. Rejection of the Claims under 35 U.S.C. § 103**

Claim 12 was rejected as unpatentable under 35 U.S.C. § 103(a) over Wasilewski in view of U.S. patent No. 5,619,250 ("McClellan"). In doing so, the Examiner relied upon Wasilewski for the disclosing all of the aspects of Claim 9, except for the inclusion of a "software program".

As discussed above, Wasilewski does not anticipate presently amended Claim 9, and therefore a combination of Wasilewski and McClellan does not serve to make dependent claim 12.

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**CONCLUSION**

The presently amended claims are believed to patentably distinguishable from the cited art, and Applicant respectfully requests that they be passed to allowance. Should any issues arise that prevent early allowance of the above application, the examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicant hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

Dated: June 20, 2006

Respectfully submitted,

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